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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/506,215	02/17/2000	Shimada Naohiro	P/126-182	7056

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EXAMINER

PRIETO, BEATRIZ

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/506,215

Applicant(s)

NAOHIRO, SHIMADA

Examiner

B. PRIETO

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-28 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. §121:

Groups I/II, (claims 1-2, 15-16)/(claims 8-9, 22-23) respectively, are drawn to a node comprising a first, second, and third layers, a first layer for: transmitting the packet/cell to said third layer through said second layer, when said first layer judges that the packet/cell is to be dropped at said node, and transmitting the packet/cell to said next node by making the packet/cell cut through said first layer, when said first layer judges that the packet/cell is to be hopped to said next node.

Group III/IV (claims 3-4 and 17-18)/ (claims 10-11 and 24-25) respectively, are drawn to a node comprising a first, second, and third layers, a first layer for: transmitting the packet/cell to said third layer, when said second layer judges that the packet/cell is to be dropped at said node, and transmitting the packet/cell to said next node by making the packet/cell cut through said second layer, when said second layer judges that the packet/cell is to be hopped to said next node.

Group V/VI (claims 5 and 19)/(claims 12 and 26) are drawn to a comprising a first, second, and third layers, a second layer for: transmitting the packet/cell to a next node by making the packet/cell cut through said second layer without terminating said first layer, when a packet/cell supplied from said first layer is not to be dropped at said node; and transmitting the packet/cell to said third layer, when the packet/cell is to be dropped at said node.

Group VII/VIII (claims 6 and 20)/(claims 13 and 27) are drawn to a node comprising a first, second, and third layers, a second layer which monitors all packets/cells in said transmission path to transmit, and transmit the packet/cell to a next node by making the packet/cell cut through said second layer, when the packet/cell is not to be dropped at said node, and transmit the packet/cell to said third layer when the packet/cell is to be dropped at said node.

Group IX/X (claims 7 and 21)/(claims 14 and 28), are drawn to a transmission apparatus and method comprising: a time slot extracting section for converting an input optical signal supplied through a first point into an input electric signal and for selecting among time slots in a transmission path of said input electric signal a particular time slot which includes a packet/cell to be dropped at a second point; etc.

The inventions are distinct, each from the other because of the following reasons: Inventions X-I are related as sub-combinations disclosed as usable together in a single combination. The sub-combinations are distinct from each other if they are shown to be separately usable.

In the instant case, e.g. invention I (claims 1-2 and 15-16), has separate utility such as it is usable in a method wherein a first layer transmits the packet to said third layer through said second layer, when said first layer judges that the packet is to be dropped at said node, and transmitting the packet to said next node by making the packet cut through said first layer, when said first layer judges that the packet is to be hopped to said next node.

And invention II (claims 8-19 and 22-23), has separate utility such as it is usable in a method wherein a first layer transmits the cell to said third layer through said second layer, when said first layer judges that the cell is to be dropped at said node, and transmitting the cell to said next node by making the cell cut through said first layer, when said first layer judges that the cell is to be hopped to said next node. Further the features in invention II lack the features existing in invention I. See MPEP 806.05(d).

2. Because these inventions (for example Group I and II) are distinct for the reasons given above and because the search required for each group is different and not co-extensive for examination purpose because these groups would require different searches, i.e. the search of Group I (claims 1-2, 15-16) and the search of Group II (claims 8-19, and 22-23) would require separate and/or independent searches; and further each searched invention i.e. Group III (claims 3-4 and 17-18), Group IV (claims 10-11 and 24-25); Group V (claims 5 and 19), Group VI (claims 12 and 26); Group VII (claims 6 and 20), Group VII (claims 13 and 27); Group IX (claims 7 and 21) and Group X (claims 14 and 28) is not required for any other Group, the restriction for examination purposes as indicated is proper.

3. Restriction is required under 35 U.S.C. §121 to one of the above- identified patentably distinct groups of designs. A reply to this requirement must include an election of a single group for prosecution on the merits, even if this requirement is traversed, 37 CFR 1.143. Any reply that does not include election of a single group will be held non-responsive. Applicant is also requested to direct cancellation of all drawing figures and the corresponding descriptions, which are directed to the non-elected.

4. Should applicant traverse this requirement on the grounds that the groups are not patentably distinct, applicant should present evidence or identify such evidence now of record showing the groups to be obvious variations of one another. If the groups are determined not to be patentably distinct and they remain in this application, any rejection of one group over prior art will apply equally to all other

embodiments. See Ex parte Appeal No. 315-40, 152 USPQ 71 (Bd. App. 1965). No argument asserting patentability based on the differences between the groups will be considered once the groups have been determined to comprise a single inventive concept.

5. In view of the above requirement, action on the merits is deferred pending compliance with the requirement in accordance with Ex parte Heckman, 135 USPQ 229 (P.O. Super. Exam. 1960).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prieto, B. whose telephone number is (703) 305-0750. The Examiner can normally be reached on Monday-Friday from 6:00 to 3:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Mark R. Powell can be reached on (703) 305-9703. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6606. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to: (703) 746-7239, for Official communications and entry


Or:

(703) 746-7240, for Non-Official or draft communications, please label "PROPOSED" or "DRAFT".

Or Telephone: (703) 306-5631 for TC 2100 Customer Service Office.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Fourth Floor (Receptionist), further ensuring that a receipt is provided stamped "TC 2100".


B. Prieto
Patent Examiner


MARK POWELL
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